

न्यायमूर्ति (सेवानिवृत्त) आर.एम. लोढा समिति
Justice (Retd.) R. M. Lodha Committee
(पीएसीएल लि. के मामले से संबंधित / in the matter of PACL Ltd.)

संदर्भ सं. जेआरएमएलसी/पीएसीएल/
Ref. No. JRMLC/PACL/

Order on the objection filed by Ms. R. Irulayee Ammal
SEBI/PACL/OBJ/NS/00007/2024

BEFORE THE RECOVERY OFFICER, SEBI
ATTACHED TO
JUSTICE (RETD.) R.M. LODHA COMMITTEE
(IN THE MATTER OF PACL LIMITED)

File No.	SEBI/PACL/OBJ/NS/00007/2024
Name of the Objector(s)	Ms. R. Irulayee Ammal
MR No.	14405/18

Background:

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") on 22.08.2014 had passed an order against PACL Limited, its promoters and directors, inter alia, holding the schemes run by PACL Ltd as Collective Investment Scheme ("CIS") and directing them to refund the amounts collected from the investors within three months from the date of the order. Vide the said order, it was also directed that PACL Ltd. and its promoters/directors shall not alienate or dispose of or sell any of the assets of PACL Ltd. except for the purpose of making refunds as directed in the order.
2. The order passed by SEBI was challenged by PACL Ltd. and four of its directors by filing appeals before the Hon'ble Securities Appellate Tribunal ("SAT"). The said appeals were dismissed by the Hon'ble SAT vide its common order dated 12.08.2015, with a direction to the appellants to refund the amounts collected from the investors within three months. Aggrieved by the order dated 12.08.2015 passed by the Hon'ble SAT, PACL Ltd and its directors had filed appeals before the Hon'ble Supreme Court of India.



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3. The Hon'ble Supreme Court did not grant any stay on the aforementioned impugned order dated 12.08.2015 of the Hon'ble SAT, however, PACL Ltd. and its promoters/ directors did not refund the money to the investors. Accordingly, SEBI initiated recovery proceedings under Section 28A of the SEBI Act, 1992 against PACL Ltd. and its promoters/ directors vide recovery certificate no. 832 of 2015 drawn on 11.12.2015 and as a consequence thereof, all bank/ demat accounts and folios of mutual funds of PACL Ltd. and its promoters/ directors were attached by the Recovery Officer vide attachment order dated 11.12.2015.
4. During the hearing on the aforesaid civil appeals filed by PACL Ltd. and its directors (*Civil Appeal No. 13301 of 2015 – Subrata Bhattacharya Vs. SEBI and other connected matters*), the Hon'ble Court vide its order dated 02.02.2016 directed SEBI to constitute a committee under the Chairmanship of Hon'ble Mr. Justice R.M. Lodha, the former Chief Justice of India (hereinafter referred to as "the Committee") for disposing of the land purchased by PACL Ltd. so that the sale proceeds can be paid to the investors, who have invested their funds in PACL Ltd. for purchase of the land. In the said civil appeals, the Hon'ble Supreme Court did not grant any stay on the orders passed by SEBI and the Hon'ble SAT. Therefore, directions for refund and direction regarding restraint on the PACL Ltd and its promoters and directors from disposing, alienating or selling the assets of PACL Ltd., as given in the order, continues till date.
5. The Committee has from time to time requested the authorities for registration and revenue of different states to take necessary steps and issue necessary directions to Land Revenue Officers and Sub-registrar offices, to not effect registration/mutation/sale/transfer, etc. of



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properties wherein PACL Ltd. and/ or its group or its associates have, in any manner, right of interest.

6. Also, the Hon'ble Supreme Court vide its order dated 25.07.2016 restrained PACL Ltd. and/ or its Directors/Promoters/agents/employees/Group and/or associate companies from, in any manner, selling/transferring/alienating any of the properties wherein PACL Ltd. has, in any manner, a right/interest situated either within or outside India.
7. In the recovery proceedings mentioned in para 3 above, the Recovery Officer issued an attachment order dated 07.09.2016 against 640 associate companies of PACL Ltd. In the said order, *inter alia*, the registration authorities of all States and Union Territories were requested not to act upon any documents purporting to be dealing with transfer of properties by PACL Ltd. and / or the group/ associate entities of PACL Ltd. mentioned in the Annexure to the said attachment order, if presented for registration.
8. The Hon'ble Supreme Court, vide its order dated 15.11.2017, passed in Civil Appeal No. 13301/2015 and connected matters directed that all the grievances/ objections pertaining to the properties of PACL Ltd. would be taken up by Mr. R.S. Virk, Retired District Judge.
9. On 30.04.2019, in the recovery proceedings initiated against PACL Ltd. and Ors, the Recovery Officer issued a notice of attachment in respect of 25 front companies of PACL Ltd. Thereafter, on 01.03.2021, the Recovery Officer issued another notice of attachment in respect of 32 associate companies of PACL Ltd., which included 25 front companies of PACL Ltd. whose accounts were attached vide order dated 30.04.2019.



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10. Vide order dated 08.08.2024 passed in *Civil Appeal No. 13301 of 2015 - Subrata Bhattacharya Vs. SEBI and other connected matters*, the Hon'ble Supreme Court has directed as under:

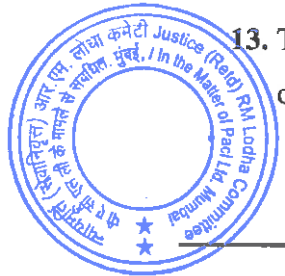
“.....10. Since, we had directed in our order dated 25.07.2024, that no fresh applications or objections shall be filed before or entertained by Shri R.S. Virk, District Judge (Retd.) and that the same shall be filed before the Committee, the Committee may deal with such applications/ objections, if filed before it, and dispose them of as per the provisions contained under Section-28(A) of the SEBI Act.....”

11. In compliance with the aforesaid order dated 08.08.2024 passed by the Hon'ble Supreme Court, all objections with respect to properties of PACL Ltd, which were pending before Shri R.S. Virk, Retired District Judge and all new objections, are now to be dealt by the Recovery Officer attached to the Committee.

Present Objection:

12. The instant objection has been filed by Ms. R. Irulayee Ammal w/o Mr. K. Rasu @ Rasu Kon, residing at 23, Kurinji Street, Sathiya Sai Nagar, Madurai (hereinafter referred to as the “**Objector**”), objecting the attachment of properties having Survey Nos. 63/3, 63/6 and 66/5B, admeasuring a total of 03 Acres, situated at Thulukankulam Village, Kariyapatty Taluk, Viruthunagar District, Tamil Nadu (hereinafter referred as the “**impugned properties**”) due to attachment of properties covered in MR No. 14405/18, which stands attached by the Committee.

13. The Objector in her objection petition has submitted that the impugned properties were originally ancestral properties of one Mr. I. Ganesan Devar s/o Mr. Irulandi Devar, which



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SEBI Bhavan, BKC, Plot No. C4-A, 'G' Block, Bandra-Kurla Complex, Bandra (East), Mumbai - 400051

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was partitioned through an unregistered partition deed on April 21, 1981. The Objector purchased the said impugned properties from Mr. I. Ganesan Devar through a registered sale deed dated February 10, 1982 bearing no. 151 of 1982 registered before Thiruchuli Sub-Registrar Office, Viruthunagar District. Immediately after the purchase, the Objector got the Patta transferred in her name and was issued Patta No. 29 dated February 08, 1983. Furthermore, it is submitted that the Encumbrance Certificate ('EC') shows no encumbrance except the sale deed dated February 10, 1982 bearing no. 151 of 1982 and another entry showing the present attachment of the impugned properties by the Committee through court order no. 48/2022 dated July 14, 2022.

14. The Objector further submits that Mr. I. Ganesan Devar executed a General Power of Attorney ('GPA') dated November 09, 2004 bearing no. 322 of 2004 in favor of one Mr. Gurjant Singh s/o Mr. Sohan Singh. Also, Mr. I. Ganesan Devar and his relatives sold land admeasuring 86 Acres to PACL Ltd., situated adjacent to the Objector's impugned properties. After purchasing the said 86 Acres of land, PACL Ltd. registered the said lands including the Objector's share of land, in the name of the Company. The Registration Office also remained inactive, taking no action to the Objector's petition quoting the incorrect registration.

15. The Objector hereby submits that she did not sell her share of 03 Acres of land in the impugned properties to anyone and that it was wrongly registered in the name of PACL Ltd., without checking its genuineness in the Viruthunagar Registration Office. The Objector, therefore, has filed the said petition seeking No Objection Certificate in respect of the impugned properties and to release the said properties from the attachment.



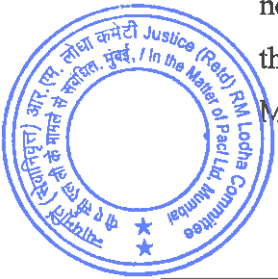
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16. The Objector was provided an opportunity of hearing on April 09, 2025. On the said date, the Objector appeared along with Advocate Mr. CN. Sasikumar. Although Mr. CN. Sasikumar did not produce any authority letter authorizing him to represent the Objector, in order to facilitate the proceedings, his participation was permitted considering the fact that the Objector was unable to communicate in any other language other than Tamil. Mr. CN. Sasikumar, Advocate while reiterating the submission made in the objection, stated that the 86 Acres of land attached by the Committee includes the 03 Acres of land in possession and ownership of the Objector. Additionally, upon specific mention of certain information in the translated copies of Sale deed, EC and Patta provided along with the objection, it was submitted that the same appear to be errors. Accordingly, Mr. CN. Sasikumar, Advocate was advised to forward documents rectifying the errors along with additional submissions, if any, on or before April 17, 2025. In response, vide letter dated April 16, 2025, Mr. CN. Sasikumar, Advocate forwarded a letter authorizing him as an advocate for the Objector, along with translated EC and Patta records. The translator's certificate along with the translator's ID was also furnished vide email dated April 30, 2025, followed by original hard copy of the said documents, which have been taken on record.

17. The objection along with the documents produced in support of the claim made therein have been perused. It is observed that Patta no. 29 shows various survey nos. including the survey nos. of the impugned properties in name of the Objector. Further, the EC records show no other entries of encumbrance except the sale deed dated February 10, 1982 bearing no. 151 of 1982 and the present attachment of the impugned properties by the Committee through court order no. 48/2022 dated July 14, 2022. Thus, as submitted in the objection, Mr. I. Ganesan had sold the impugned properties at Survey Nos. 63/3, 63/6 and 66/5B



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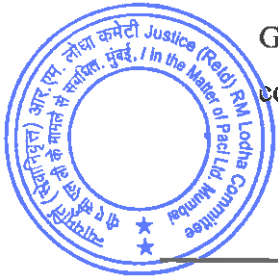
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admeasuring a total of 03 Acres to the Objector viz. Ms. R. Irulayee Ammal w/o Mr. K. Rasu @ Rasu Kon for a total consideration of Rs. 3,000/-, by way of executing registered sale deed dated February 10, 1982 bearing no. 151 of 1982.

18. In order to further examine the present objection, the documents seized in the MR No. from the possession of PACL Ltd. and thereafter, attached by the Committee were perused and upon perusal it is observed that a GPA dated November 05, 2004 bearing no. 322/2004 (same GPA as mentioned in the objection) was executed by Mr. I. Ganesan s/o Erulandi Thever (predecessor in the title of the impugned properties) in favour of Mr. Gurjant Singh s/o Mr. Sohan Singh for certain properties, including the impugned properties at Survey Nos. 63/3, 63/6 and 66/5B.

19. However, as mentioned in the preceding paragraphs, Mr. I. Ganesan had already transferred the impugned properties to the Objector by way of executing registered sale deed dated February 10, 1982. By virtue of the same, the vendor i.e., Mr. I. Ganesan had transferred the ownership, interest and title in the impugned properties to the Objector and thus, ceased to be the owner/title holder of the said impugned properties. It is noted that the document which has been seized from the possession of PACL Ltd. under the above said MR. No. is a GPA executed by Mr. I. Ganesan in favor of PACL Ltd. associate entity for certain properties including the impugned properties. However, as the impugned properties were sold by the Doner viz. Mr. I. Ganesan in favor of the Objector almost 22 years before the date of execution of the GPA he had ceased to be the title owner in the said properties and was not legally eligible to transact in the said properties. Therefore, the GPA executed in favor of Mr. Gurjant Singh with respect to the impugned properties is a contract void ab initio.



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20. Notwithstanding the above fact, assuming that the said GPA executed by the Donor intended to create interest in favour of the Donee, by virtue of the judgement passed by the Hon'ble Supreme Court in the case of *Suraj Lamp and Industries Pvt. Ltd Vs. State of Haryana & Anr (2012) 1 SCC 656*, which discouraged the practice of transferring an immovable property by way of executing a GPA / Agreement to sell / Will, it is clear that mere execution of GPA does not convey any title and cannot be said to be a valid mode of transferring any immovable property. The Hon'ble Supreme Court in the case of *Suraj Lamp (Supra)* observed as under:

"24. We therefore reiterate that immovable property can be legally and lawfully transferred/conveyed only by a registered deed of conveyance. Transactions of the nature of "GPA sales" or "SA/GPA/will transfers" do not convey title and do not amount to transfer, nor can they be recognised or valid mode of transfer of immovable property. The courts will not treat such transactions as completed or concluded transfers or as conveyances as they neither convey title nor create any interest in an immovable property. They cannot be recognised as deeds of title, except to the limited extent of Section 53-A of the TP Act. Such transactions cannot be relied upon or made the basis for mutations in municipal or revenue records. What is stated above will apply not only to deeds of conveyance in regard to freehold property but also to transfer of leasehold property. A lease can be validly transferred only under a registered assignment of lease. It is time that an end is put to the pernicious practice of SA/GPA/will transactions known as GPA sales."

21. Thus, the Hon'ble Supreme Court has amply clarified the position that mere execution of GPA does not convey any title and cannot be said to be a valid mode of transferring any immovable property. In the present case, even though a GPA was executed by the predecessor to the title of the impugned properties in favor of the Power of Attorney ('POA') holder, the said GPA cannot create any ownership right or transfer the title in the



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impugned properties to the POA holder. In view of the foregoing, considering that the sale of impugned properties by registered sale deed dated February 10, 1982 by the predecessor was an actual transfer of title of the impugned properties in favor of the Objector and the consequent execution of GPA by the predecessor being *void ab initio*, the Objection filed by the Objector is liable to be allowed.

ORDER:

22. Given the above facts, the objection raised by the Objector is liable to be allowed and is accordingly, allowed.

Place: Mumbai
Date: June 03, 2025




MS. RESHMA GOEL
RECOVERY OFFICER

रेशमा गोयल / RESHMA GOEL
उप महाप्रबंधक एवं वसूली अधिकारी
Deputy General Manager & Recovery Officer
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